

REMARKS

Applicants have amended claims 1 and 2, added claims 11 and 12 and have not canceled any claims. Accordingly, claims 1-12 are currently pending in this patent application. Applicants now address each and every point raised by the Examiner in the above-noted Office action as follows:

I. Specification

The disclosure was objected to because it was missing a Brief Description of the Drawings. Appropriate correction has been made.

II. Claim Objections

Claim 2 was objected to because light was misspelled. Appropriate correction has been made.

III. Claims Rejected Under Section 102

The Examiner has rejected Claims 1-2, 5-7 and 10 under 35 U.S.C. § 102(b) as allegedly being anticipated by Lui'344 (US Patent No. 6021344). See the Office Action for the specific rejections.

To anticipate a claim under 35 U.S.C. § 102(b), the reference must teach each and every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631 (Fed. Cir. 1987).

Applicants respectfully submit that Lui'344 does not teach each and every element of Claim 1. Claim 1 has been amended to recite "providing ambient light from a normal

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illumination source at a first level [and], without reducing the ambient light from the first level, illuminating a gross anatomical area of epithelial tissue..." Lui'344 doesn't teach, show or suggest such a feature. In fact, Lui'344 teaches away from performing the diagnostic method taught therein under normal ambient light conditions. For example, Lui'344 states "Referring to FIG. 1, there is shown a schematic block diagram of a preferred embodiment of the apparatus of the present invention useful for dark room diagnosis of a skin disease site." (Col. 2, lines 50-53). Lui'344 also states "The foregoing apparatus is best operated under low ambient light conditions so as to minimize interference with the relatively weak fluorescence signals." (Col. 2, lines 61-64). Lui'344 also states "In a further aspect, the present invention provides a method of diagnosing a skin disease site in low ambient light environment" (Col. 2, lines 21-23).

Accordingly, in Lui'344, the lights in the diagnostic room would either be turned off or at least significantly dimmed. The advantage of the present invention is being able to perform the claimed method in a room with the lights at a normal level. In other words, the method is performed without having to dim the lights.

Lonky does not teach or suggest performing his diagnostic method with the lights at a normal level either. In fact, Zila Pharmaceuticals, Inc., the owner of the present application is also the owner of the Lonky patent. In performing the diagnostic method taught in the Lonky patent, the lights are turned off or significantly dimmed. The advantage of the presently claimed method is being able to perform the method with the normal room lights on.

Claim 2 has been similarly amended. Accordingly, it is believed that claims 1 and 2 and all claims dependent thereon are in condition for allowance.

IV. Claims Rejected Under Section 103

The Examiner has rejected Claims 3-4 and 8-9 as under 35 U.S.C. § 103(a) as allegedly being unpatentable over Lonky'983 (US Patent No. 5,329,938). See the Office Action for the specific rejections.

Claims 3-4 and 8-9 depend from claim 1 and therefore patentably distinguish over Lui'344 as discussed above.

Accordingly, applicants respectfully request the withdrawal of the § 103 rejection.

It is believed that all claims now pending patentably define the subject invention over the prior art of record and are in condition for allowance and such action is earnestly solicited at the earliest possible date.

V. Request for Telephone Conference

If, after considering this Amendment, the Examiner believes that any of the pending claims are not properly allowable, Applicants request that the Examiner please contact their authorized representative identified below by phone prior to issuing any further Office action for the purpose of hopefully resolving any such issue.

Please charge our Deposit Account No. 10-0440 if any additional fees are necessary for this matter.

Respectfully submitted,

JEFFER, MANGELS, BUTLER & MARMARO LLP

Dated: 11/5/07 By: _____

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